

AGENDA SUMMARY PAGE - PLANNING & DEVELOPMENT
CITY COUNCIL MEETING OF: OCTOBER 7, 2009**DEPARTMENT: PLANNING & DEVELOPMENT****DIRECTOR: M. MARGO WHEELER**☐ Consent ☒ Discussion**SUBJECT:**

SUP-35224 - SPECIAL USE PERMIT - PUBLIC HEARING - APPLICANT: HOUSE OF VINO, LLC - OWNER: TETON DURANGO 2008, LLC - Request for a Special Use Permit FOR ACCESSORY PACKAGE LIQUOR OFF-SALE WITHIN A PROPOSED 2,510 SQUARE-FOOT CONVENIENCE STORE at 8053 North Durango Drive, Suite #160 (APN 125-08-806-003), C-1 (Limited Commercial) Zone, Ward 6 (Ross). The Planning Commission (4-1-1 vote) and staff recommend APPROVAL

PROTESTS RECEIVED BEFORE:**Planning Commission Mtg.****17****City Council Meeting****78****APPROVALS RECEIVED BEFORE:****Planning Commission Mtg.****7****City Council Meeting****77****RECOMMENDATION:**

The Planning Commission (4-1-1 vote) and staff recommend APPROVAL, subject to conditions.

BACKUP DOCUMENTATION:

1. Location, Aerial and Special Maps
2. Conditions and Staff Report
3. Supporting Documentation
4. Photos
5. Justification Letter
6. Protest/Support Postcards
7. Submitted after Final Agenda – Protest/Support Postcards
8. Submitted at Meeting – Protest/Support Petitions by Dave Eder and Protest Petition by Jennifer Taylor
9. Submitted after Meeting – Support Postcard and Recordation Notice of City Council Action and Conditions of Approval
10. Backup referenced from the September 10, 2009 Planning Commission Meeting Item 17

Motion made by STEVEN D. ROSS to Approve subject to conditions and adding the following conditions:

- A. The maximum window signage shall be 20 percent and there shall be no neon window signage.
- B. There shall be no outside pay phones.

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Passed For: 5; Against: 1; Abstain: 0; Did Not Vote: 1; Excused: 0

RICKI Y. BARLOW, STEVE WOLFSON, OSCAR B. GOODMAN, GARY REESE, STEVEN D. ROSS; (Against-STAVROS S. ANTHONY); (Abstain-None); (Did Not Vote-LOIS TARKANIAN); (Excused-None)

Minutes:

MAYOR GOODMAN declared the Public Hearing open.

DAVE EDER, 777 East Courts Avenue, Sandy Valley, Nevada, appeared on behalf of the applicant, JEREMIAH BUSCHE, 8965 South Eastern Avenue, who was also present. MR. EDER explained that the proposal is for an upscale convenience store. He showed photos and diagrams and pointed out the exact location of the subject site. Approximately 8.5 percent of the total square footage will consist of beer, wine and liquor. There is a deli with fresh bakery products. MR. BUSCHE canvassed the area and received 74 approvals, with 17 in opposition, and the petition was submitted for the record. The proposed hours of operation are 5:00 a.m. to 10:00 p.m., Sunday through Thursday, and 5:00 a.m. to midnight on Friday and Saturday.

Both LISA MAYO DE RISO and JENNIFER TAYLOR spoke on behalf of Northwest Residents for Responsible Growth and expressed their protest for the development. They commented on the inconsistencies with this application. The applicant misrepresented the request, as he failed to mention to the affected area residents that the applicant could apply for a gaming license, up to seven slot machines. Gaming is an adult use and is acceptable in other locations, such as the Strip. In addition, there is an adjacent swimming school that adults attend with their children.

MS. TAYLOR noted that she lives within walking distance from the subject site and used her map to point out nearby convenience stores. The area is saturated with these and although there would be conditions, if approved, she did not believe the applicant would adhere to all of the conditions should they experience a decline in sales. She has seen a significant change in the quality of life within the neighborhood, given increased density and commercial development. She explained the history on the subject corner, noting that business owners and residents have witnessed vagrants and panhandlers. MS. TAYLOR could only support a deli with specialty liquor, similar to the limitations of the previously approved business, VINO 100.

COUNCILMAN REESE questioned MS. MAYO DE RISO as to why she goes above and beyond with speaking on items that do not affect her neighborhood area. MS. MAYO DE RISO appreciated the Councilman's questioning, but pointed out that quality of life is of the utmost importance and, if not for individuals like her, some issues could be overlooked. The average citizen does not research applications in detail nor sometimes understand the specifics of the Code. She believes one does not have to be a lobbyist to be a community leader. MS. MAYO DE RISO quoted some statistics on traffic counts and pointed out the area is consumed with

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foreclosed properties and renters. She asked that the application be denied, which would alleviate any possibility of the applicant requesting a gaming license.

COUNCILMAN WOLFSON confirmed with MARGO WHEELER, Director of Planning and Development, that in accordance with Title 6, the applicant could apply for a privileged license; however, the Council has the discretion to grant such a license, based upon suitability and not compatibility. ASSISTANT CITY ATTORNEY BRYAN SCOTT concurred with MS. WHEELER'S summation.

MS. WHEELER confirmed for the Council that there were existing conditions that addressed the hours of operation, maximum allowed floor area for alcohol sales. She read the additional conditions pertaining to window signage and pay phones, to which MR. EDER and MR. BUSCHE agreed.

Regarding the neighborhood meetings held, COUNCILMAN ANTHONY asked MR. BUSCHE how the residents' concerns were addressed. He acknowledged that this is a proposed liquor store, which will be situated right in the middle of a residential neighborhood. MR. EDER responded that the proposal involves a high-end convenience store with a small section for liquor.

MR. EDER confirmed for COUNCILWOMAN TARKANIAN that he was explicit in his representation at these meetings and on the petition, which included the slot machines, and noted the support petition is a clear indication that the majority of residents desire this use. The Councilwoman reviewed the petition and, in her opinion, only five signatures of support are included where the wording is clear, but the remaining signatures only include a check mark in the support box. MR. BUSCHE explained that the petition was updated to be more specific during the application process. The Councilwoman did not believe the applicant was trying to undermine residents but emphasized that it is very important to state the request clearly at the top of a petition so that individuals will not be influenced when signing. MR. EDER noted that the sign plan shown to the residents also depicted the slot machines.

TODD FARLOW was confused as to why there was opposition, when gambling is permitted in Las Vegas.

ANTHONY HODGES commented that most of the concerns deal with the gambling component. He stated patrons would be purchasing the alcohol but not drinking on site.

COUNCILMAN ROSS thanked MS. TAYLOR for her comments, which he felt brought legitimacy to the opposition. He emphasized that this request is for a special use permit with packaged liquor, which is allowed in C-1 zoning. Approval of the gaming component will have to be made by the Nevada Gaming Control and the City's Business Services Division.

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MR. EDER recalled for COUNCILMAN ROSS the discussion that took place when they met and his expectations of the applicant during this process. The Councilman acknowledged MS. TAYLOR'S concern for not wanting to see another challenging convenient store; however, the request does not involve a zone change and the store will not be operational 24 hours. Any applicant has the ability to come back with additional requests, and he stays committed to protecting neighborhoods and ensuring neighborhood meetings are held with residents prior to these hearings. He read a support letter.

For COUNCILMAN ROSS, MS. WHEELER confirmed that there are existing conditions addressing the hours of operation, which will be from 5:00 a.m. to 10:00 p.m., Sunday through Thursday, and 5:00 a.m. to midnight on Friday and Saturday. In addition, the maximum allowed floor area for alcohol sales is 8.5 percent. She partly read the recommended additional conditions pertaining to window signage and pay phones, to which MR. BUSCHE agreed.

MAYOR GOODMAN declared the Public Hearing closed.

